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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,004	01/25/2006	Wilhelm Hardtle	ZAHFRI P814US	9968
20210	7590	12/28/2007	EXAMINER	
DAVIS BUJOLD & Daniels, P.L.L.C. 112 PLEASANT STREET CONCORD, NH 03301			LE, DAVID D	
		ART UNIT	PAPER NUMBER	
		3681		
		MAIL DATE	DELIVERY MODE	
		12/28/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/566,004	HARDTLE, WILHELM
	<b>Examiner</b>	<b>Art Unit</b>
	David D. Le	3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 January 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 13-25 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 13-25 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 January 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>01/25/06</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

1. This is the first Office action on the merits of Application No. 10/566,004, filed 25 January 2006. Claims 13-25 are currently pending.

### **Documents**

2. The following documents have been received and filed as part of the patent application:

- A Copy of Foreign Priority Document, received on 01/25/06
- Information Disclosure Statement, received on 01/25/06

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 13 provides for the method for controlling an actuator of a starting clutch, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a method without any active, positive steps delimiting how this use is actually practiced.

Claim 13 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

5. Claims 13-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

*Claim 13:*

- Line 3 recites the limitation “a starting clutch”. It is unclear whether this newly recited “a starting clutch” is different from the one, which is first recited on line 1 the claim.

*Claim 14:*

- Line 4 recites the limitation “a fully automatic manner”. It is unclear what manner that the claim is referring to as being fully automatic.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 13-25, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by U. S. Patent No. 4,914,983 to Simonyi et al.

*Claims 13-25:*

Simonyi (Figs. 1-2; column 1, line 45 - column 5, line 32) discloses a system for freeing a motor vehicle by repeated forward-reverse operation comprising:

- An engine (i.e., Fig. 1, element 1);
- An automatic transmission (i.e., Fig. 1, element 2);
- A starting clutch (i.e., Fig. 1, element 15);
- A clutch actuator (i.e., Fig. 1, element 7);
- A control unit (i.e., Fig. 1, element 8);
- Wherein the control unit (8) performs the steps of:
  - regulating the actuator so that the starting clutch engages, at an indication of a desire to start and engages and at a given transmission ratio, and disengages, at termination of a starting procedure;
  - operating the starting clutch during the starting procedure by control of the actuator in such a way that a torque transmitted therefrom varies periodically;
  - conforming a periodicity of the actuator with characteristics of the vehicle and with those of an actual roadway obstruction so that the vehicle is able to overcome the roadway obstruction;
  - taking into consideration of a vehicle speed for a determination of a periodic actuation of the actuator;
  - maintaining a constant transmission ratio during periodic operation of the actuator;
  - carrying out periodic operation only if the control unit previous confirms that the vehicle speed is very small or is zero and a slip of at least one of the vehicle driving wheels oversteps a predetermined threshold value;

- carrying out periodic operation only if the control unit has a previous confirmation that an actuation element for activation of the periodic operation is operated by a vehicle occupant.

***Conclusion***

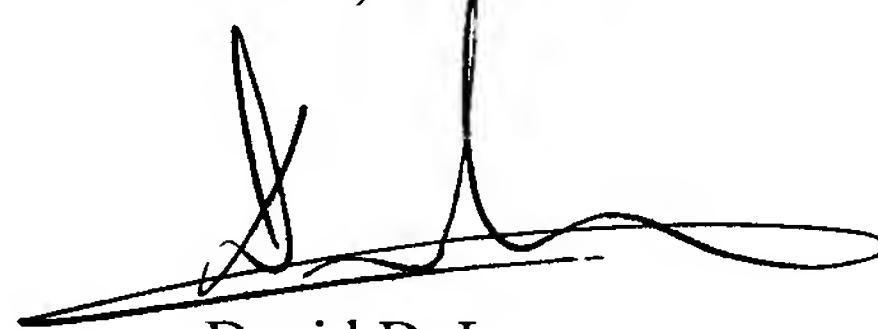
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Karczag et al. (U. S. Patent No. 7,010,407) teaches a hydraulic system for controlling the rate at which fluid flows to an oncoming clutch and for quickly disengaging the clutch.
- O'Neil et al. (U. S. Patent No. 6,549,838) teaches a control strategy for controlling friction element engagement and disengagement time for an automatic transmission when the transmission is operating at cold ambient temperatures.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Le whose telephone number is 571-272-7092. The examiner can normally be reached on Mon-Fri (0700-1530).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David D. Le  
Primary Examiner  
Art Unit 3681  
12/25/2007

ddl